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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,746	10/23/2001	Doreen Lynn Galli	RSW920010198US1	5805
7590 11/30/2005				
IBM CORPORATION INTELLECTUAL PROPERTY LAW DEPT. IQOA/BLDG. 040-3 1701 NORTH STREET ENDICOTT,, NY 13760			EXAMINER MCALLISTER, STEVEN B	
			ART UNIT 3627	PAPER NUMBER
DATE MAILED: 11/30/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/032,746	<b>Applicant(s)</b> GALLI, DOREEN LYNN	
	<b>Examiner</b> Steven B. McAllister	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5,9,11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,9,11 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yahoo web page printout in view of Hoar et al (2002/0147651).

Yahoo shows shopping and ordering an item from vendors having both a brick and mortar and e-commerce presence. Yahoo does not show determining the approximate quantity in stock available for purchase, adjusting the number responsive to a quantity held estimate of a number of units held prior to check out by in-person shoppers, comparing the adjusted quantity with a first threshold, or taking corrective action when the quantity is less than the threshold.

Hoar et al show determining via the server an approximate quantity of the item available for purchase by the online shopper; adjusting the quantity responsive to a quantity held estimate of a number of units of the item held by in person shoppers who physically removed the units of the item from inventory since the last inventory update from the vendor (see e.g., pars. 0049, 0053-0055, 0073) to provide an adjusted quantity (it is also noted that Hoar et al states that the method can be used when ordering online); comparing the adjusted quantity with a first threshold; and when the adjusted

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quantity is less than the first threshold invoking a corrective action (e.g., stating that the customer should check with the store regarding stock). It would have been obvious to one of ordinary skill in the art to modify the method of Yahoo as taught by Hoar et al in order to account for changes in inventory between the time that inventory was last updated and that the order process begins and to further update the level for the estimated time between the start of the order process and the final submission.

As to claim 2, it is noted that Hoar et al show basing the quantity held estimate on an average number purchased historically (see e.g., par. 0054).

As to claims 3, it is noted that Hoar et al show using time of day.

As to claim 9, it is noted that since Hoar et al monitors the approximate quantity in the nominal situation and does not stop monitoring it during the step of invoking, the invoking step includes monitoring the approximate quantity. It is further noted that when the approximate quantity falls below a second threshold, the on-line shopper is informed (he is told that item is out of stock).

As to claim 4, Yahoo in view of Hoar et al show all elements except that the quantity held estimate is based on day of the week. However, the examiner takes official notice that it is notoriously old and well known in the art to vary purchase forecasts based on day of the week. It would have been obvious to one of ordinary skill in the art to further modify the method of Yahoo by basing the estimate on day of the week in order to more accurately capture likely shopping patterns.

As to claim 5, Yahoo in view of Hoar et al show all elements except that the quantity held estimate is dependent on proximity to a holiday. However, the examiner takes official notice that it is notoriously old and well known in the art to vary purchase forecasts based on proximity to a holiday. It would have been obvious to one of ordinary skill in the art to further modify the method of Yahoo by basing the estimate on the proximity to a holiday in order to more accurately capture likely shopping patterns.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

It is noted that the combination would not read on a claim recited determining a real time approximate quantity available and modifying the real time approximate quantity. It further appears that the specification supports such a recitation.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

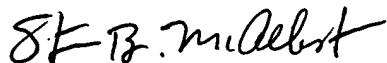
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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is 571-272-6785. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven B. McAllister

Steven B. McAllister  
Primary Examiner  
Art Unit 3627

**STEVE B. MCALLISTER**  
**PRIMARY EXAMINER**